

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Jaden Ayotte,

Civil Action No. _____,

Plaintiff,

vs.

NOTICE OF REMOVAL

Diversified Adjustment Service, Inc.,

Defendant.

TO: **THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MINNESOTA, and**

**PLAINTIFF ABOVE-NAMED AND HER ATTORNEY, BRIANNA R.
SADLER, MADGETT & CHAN, 619 TENTH STREET SOUTH, SUITE 301,
MINNEAPOLIS, MINNESOTA 55404**

PLEASE TAKE NOTICE that Defendant Diversified Adjustment Service, Inc. (“Diversified”) hereby removes the State Court action described below to this Court pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, *et seq.* and respectfully states as follows:

I. Removal Procedure

1. The removed action, entitled *Jaden Ayotte v. Diversified Adjustment Service, Inc.* was commenced by the service of a Summons and Complaint via certified mail through the Minnesota Secretary of State on Diversified on April 10, 2013. *See* Exhibit A, a true and correct copy of Verified Complaint with Exhibits A-B and E-L. Exhibits C and D are contained in a CD which will be hand-delivered to the Court.

2. Both the Summons and Complaint identify the Tenth Judicial District Court for the County of Washington as the anticipated venue. The Summons and Complaint were

served but not filed. Nevertheless, the action is removable. *See, e.g., Lyon Financial Services, Inc. v. Greater Calvary Bible Church*, No. 09-CV-3734, 2010 WL 1389611, at *2 (“[T]he Court is not aware of any reason why a Minnesota state action that has been commenced through service—but not yet filed—could not be removed.”).

3. Under 28 U.S.C. § 1446(b), this Notice of Removal is filed within thirty (30) days of the first date upon which Diversified received notice of the pleadings setting forth the claim for relief upon which this removal is based.

4. A Notice of Filing Notice of Removal and a copy of this Notice of Removal to Federal Court have been sent for filing in the Washington County District Court as required by 28 U.S.C. § 1446(d) and copies of the same have been served upon Plaintiff’s counsel as verified by the attached proof of service.

II. This Court Has Original Subject-Matter Jurisdiction

5. In her Complaint, Plaintiff pleads that she resides in the State of Minnesota, while the alleged “tort occurred primarily at Plaintiff’s home residence located in Washington County” and Diversified is alleged to have “conducted business in the State of Minnesota and the County of Washington” and is “registered to do business in the State of Minnesota[.]” [Compl. at ¶¶ 3, 5, 6, 7.]

6. This action may be removed to this Court from the Fourth Judicial District Court pursuant to 28 U.S.C. § 1441 because the District of Minnesota is the District embracing the place where the action was commenced.

7. In her Complaint, Plaintiff alleges violations of federal statutes, the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692, *et seq.* and the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, *et seq.*

8. This action is removable pursuant to 28 U.S.C. § 1441 because it is a civil action of which this Court has original jurisdiction (based on federal question jurisdiction under 28 U.S.C. § 1331) and because Defendant Diversified is removing this action to the District Court of the United States for the district and division embracing the place where the action is pending.

9. This court has original jurisdiction of this civil action pursuant to 28 U.S.C. § 1331 because the action constitutes a claim by Plaintiff for violations of federal statutes. (*See* Exhibit 1, Complaint.)

10. Based on the foregoing, Defendant Diversified is entitled to remove this action to this Court under 28 U.S.C. § 1441, *et seq.*

WHEREFORE, Defendant Diversified Adjustment Service, Inc. removes this action from the Tenth Judicial District Court for the County of Washington in the State of Minnesota, and respectfully requests any further relief, general or specific, at law or in equity, to which it may be justly entitled.

BASSFORD REMELE
A Professional Association

Dated: May 9, 2013

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